

REMARKS

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

Claim 19 is objected to in the first paragraph of the Office Action wherein it is stated that the claim does not set forth any steps involved in the method but appears to be drawn to a keyboard cover *per se*. Applicant disagrees with the Examiner's interpretation of claim 19. However, the language used may have contributed to the method step of the claim having been overlooked. Consequently, claim 19 has been amended to more clearly set forth the method involved. In summary, the method involves having each user of a keyboard utilize their own personal, easily removable, keyboard cover prior to the use of the keyboard and subsequently removing it. It is respectfully suggested that the amendment to claim 19 addresses the Examiner's objection and, therefore, withdrawal of the objection is respectfully requested.

Claims 1-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the language "optionally" appearing in claims 1, 18 and 19 are said to render the claims indefinite because it is unclear whether the limitation(s) following the term are part of the claimed invention. With regard to this rejection, the Examiner identifies M.P.E.P. § 21.73.05(d). This rejection is respectfully traversed.

Referring to the cited section of the M.P.E.P. it can be seen that a rejection for indefiniteness under 35 U.S.C. § 112, second paragraph, can be appropriate in the circumstance where a claim uses "exemplary" claim language. Such language is identified specifically as "for example," and "such as." In contrast, the presently rejected claims utilize the term "optionally." Use of the term "optionally" in claims 1, 18

and 19 does not leave any doubt with regard to whether or not the recited element is part of the claimed invention. Initially, it is noted that a semicolon sets off the phrase employing the term from the rest of the claim. Furthermore, the element is an optional one wherein the word "optional" has its ordinary or customary meaning. In particular, communication between a keyboard and an external device, such as a central processing unit, can be by means of a cable or, e.g., an infrared link. In the circumstance where communication is achieved by use of a cable, the keyboard cover would, naturally, include an opening to permit the cable to pass through. In contrast, where an infrared link was used, the keyboard cover, being substantially transparent, could permit an infrared beam to pass between the keyboard and the central processing unit without requiring an opening in the cover. Alternatively, it is also feasible to permit an opening in the keyboard cover to permit such an infrared link to pass between the units without any obstruction. Since the choice of which communication means to use is at the option of the user, therefore, it is an optional feature of the invention. It is respectfully suggested that there is nothing unclear about the use of the term "optionally" with regard to the element in the identified claims. Withdrawal of this rejection is respectfully requested.

Claims 1-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because the language "proximate" appearing in claims 1 and 18 is said to be indefinite. It is further explained that the term "proximate" has no clear meaning and does not positively recite any structure. This rejection is respectfully traversed.

With all due respect, it is noted that the term "proximate" is regularly used in patent claims. In particular, a search of the U.S. Patent and Trademark Office database shows that at least five patents have been granted in the same class as the

present application in which the term "proximate" is employed in the claims; the Examiner's attention is initiated to U.S. Patent Nos. 5,978,215; 6,040,977; 6,108,200; 6,178,085; and 6,459,925. Furthermore, the use of the term is clear from the context of the claim as well as from the context of the specification wherein the term is defined in paragraph [0022]. Withdrawal of this aspect of the rejection is respectfully requested.

Claim 7 is rejected as constituting a double recitation of the subject matter recited in claim 1 with regard to "an external device." The Examiner states that the phrase "an external device" is inferentially recited in claim 1. This rejection is respectfully traversed.

As discussed above, the recitation in claim 1 regarding a means for communication between the keyboard and an external device is recited as an optional feature of the keyboard. In contrast, claim 7 positively recites the presence of a communication means between the keyboard and an external device. It is respectfully suggested that this does not result in a double recitation of subject matter. Withdrawal of this rejection is respectfully requested. However, it is noted that claim 7 has been amended to correct an inadvertent editorial error in that the use of the word "of" between the words "keyboard" and "further" has been deleted.

Claim 9 has been rejected under 35 U.S.C. § 112, second paragraph, as being "simply functional" and not restricting its parent claim (claim 8) since the limitation of the light beam is not consistent with the claimed subject matter. This rejection is respectfully traversed.

As discussed above, the keyboard over which the keyboard cover is applied can communicate with the central processing unit by various means. In the circumstance where such communication is achieved by transmission of a light beam to or from the keyboard, as set forth in claim 8, claim 9 further

limits such light beam to one in the infrared spectrum. Such limitation can be relevant, for example, in view of the light transmission qualities of the keyboard cover in various regions of the electromagnetic spectrum. Withdrawal of this rejection is respectfully requested.

On page 3 of the Office Action, the Examiner concludes the comments relating to the claim rejections under 35 U.S.C. § 112, with the statement, "the above rejections are simply examples of the errors present and that Applicant is required to carefully review the claims and eliminate all such errors." This blanket rejection is respectfully traversed. Applicant has directly addressed the errors specifically enumerated by the Examiner and complied with all requirements under 35 U.S.C. § 112. In the event that the Examiner identifies further issues, such will be addressed in future communications. Applicant believes that all of the claims in their present form are allowable in view of 35 U.S.C. § 112 as well as all other relevant sections of the Patent Statute.

Claims 1-5, 7, 18 and 19 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by each of the patents to Nopper et al. (hereinafter "Nopper") and Phillippe ("Phillippe"). This rejection is respectfully traversed.

Nopper is said by the Examiner to teach a keyboard cover having the structure and method which meet the structure and method as broadly claimed herein. The Examiner states, "for example, Nopper et al. teaches a keyboard cover 24 having a top panel 28, a vertical side, front and rear panels as shown in Figs. 3 and 3A of Nopper et al." It is respectfully noted that the claims of the present invention are directed in their broadest aspect to more than merely the recitation of top and side panels for a keyboard cover. In particular, the Examiner's attention is invited to the closing lines of claim 1 wherein said claim recites "a thin, elastomeric and substantially

transparent membrane" and "provided that said top panel cross-section does not correspond to the depressions or elevations of a specific keyboard array." It is clear that the amended claims are distinguished not only from the figures of the reference but also from the substance of the invention of the Nopper reference, i.e., the structure utilizing a molded keyboard key array. It is further noted that a proper rejection for anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of the claimed invention. *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052 (Fed. Cir. 1994). It is respectfully suggested that both Nopper and Phillippe are inadequate in this regard since neither discloses the presently claimed keyboard features.

With regard to Phillippe, the rejection states that it teaches a keyboard cover having the structure and method which meet the structure and method as broadly claimed. Again, it is said that Phillippe teaches a keyboard cover 13 having a top panel 23, a vertical side, front and rear panels 22, 22a, as shown in Figs. 3 and 4. The rejection in view of Phillippe is respectfully traversed for the same reasons as explained above with regard to Nopper. Withdrawal of the rejection under 35 U.S.C. § 102(b) is respectfully requested.

Claims 6 and 8-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over each of the patents to Nopper and Phillippe. This rejection is respectfully traversed.

The Examiner explains that each of the patents to Nopper and Phillippe teach the keyboard cover having substantially the structure as claimed. However, the Examiner states that Nopper and Phillippe "fail to teach clearly the elastomeric compositions of side panels which have less elasticity than the top panel." The Examiner's argument continues, "[h]owever, the use of a top panel which has less [sic, more] elasticity than

the side panel for ease of entering data on a keyboard is well known in the art." The Examiner concludes that therefore it would have been obvious to one of ordinary skill in the art to modify the keyboard of Nopper or Phillippe by providing a top panel which has an elastomeric composition which is less (sic, more) elastic than the side panels to improve the efficiency of typing on a keyboard, if in fact Nopper or Phillippe does not teach the top panel as recited. This rejection is respectfully traversed.

To begin with, the only claim to which this argument is relevant is claim 6; claims 8-17 are directly or indirectly depend from claim 1. In quoting from the rejection, it is respectfully noted that Applicant believes that the Examiner inadvertently made reference to the top panel having less elasticity than the side panels whereas claim 6 actually claims an enclosure wherein the top panel has greater elasticity. The rejection has been interpreted as recited in the preceding paragraph. If the Examiner intended otherwise, the undersigned would appreciate a further opportunity to address this aspect of the rejection. The Examiner states that such a construction "is well known in the art" but no support for such a statement is provided. If the Examiner persists in this rejection, a prior art reference should be provided so that there is an opportunity to consider it and prepare a detailed response. Furthermore, it is respectfully suggested that a keyboard cover enclosure having such differential properties is heretofore unknown in the art. Additionally, it is respectfully noted that both Nopper and Phillippe define a keyboard cover wherein the cover is molded to the shape that receives the keys in alignment with the keyboard beneath. (See, e.g., claim 1 of Nopper at lns. 25-27, and claim 1 of Phillippe at lns. 39-42.) In the absence of a suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in

the art to modify the references to comport with the claims, it is respectfully noted that the rejection does not meet the test for *prima facie* obviousness under 35 U.S.C. § 103. See M.P.E.P. § 2143.

In summary, the distinction between the references Nopper and Phillippe and the claims of the present invention is most clearly illustrated in Figure 1 of each of the references, wherein molded keyboard cover structures corresponding to the underlying keys are illustrated. This structural feature is contrary to the claimed invention. Withdrawal of this aspect of the rejection is respectfully requested.

Claims 10-14 are similarly rejected under 35 U.S.C. § 103(a) as being unpatentable over Nopper and Phillippe in that selection of a desired material involves only an obvious matter of design choice based upon obvious experimentation. This rejection is respectfully traversed.

Since the structures set forth in the references Nopper and Phillippe differ significantly from that claimed in the present invention, it is not clear how there exists motivation to modify the disclosures of Nopper and Phillippe to arrive at Applicant's claimed invention. In particular, it is noted that there are more than about 3,000 keyboard variations available in the marketplace. The inventions of Nopper and Phillippe are directed to providing keyboard covers molded to specifically fit a particular keyboard structure and key arrangement. In contrast, the present invention is directed to a keyboard cover suited for use with essentially all such variations since the surface of the cover is not required to be molded to fit each keyboard variation. Instead, the present invention relies on the use of a thin, elastomeric membrane in order to provide suitable contact between the user and the keys. The ability to use such a novel structure was not recognized in the art prior to the advance presented herein. While seemingly simple, it is

an elegant solution to a difficult problem considering the large number of variations of keyboards in the marketplace. Selection of materials is but one aspect of the invention, the broader concept of which is clearly distinguished over the references, as explained above. Withdrawal of this aspect of the rejection is respectfully requested.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "**Version with markings to show changes made**".

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By

  
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Version With Markings to Show Changes Made

1. (Amended) A protective enclosure or cover for a keyboard assembly having a plurality of keys on a top face thereof, and an obverse face opposite said top face and, optionally, a means to provide communication between said keyboard and an external device; said enclosure having an envelope-like structure comprising at least a top panel, two vertical side panels, a vertical front panel and a vertical rear panel, said enclosure of a size to receive said keyboard when said enclosure is minimally stretched, wherein said top panel comprises a thin, elastomeric and substantially transparent membrane in proximate contact with said keys of said keyboard, provided that said top panel cross-section does not correspond to the depressions or elevations of a specific keyboard array.
7. (Amended) The enclosure of claim 1 wherein said keyboard~~—of~~ further comprises at least one communication means between said keyboard and an external device.
18. (Amended) A structure comprising a keyboard assembly and a protective enclosure therefore, wherein said keyboard assembly has a plurality of keys on a top face thereof, and an obverse face opposite said top face and, optionally, a means to provide communication between said keyboard and an external device; and wherein said enclosure has an envelope-like structure comprising at least a top panel, two vertical side panels, a vertical front panel and a vertical rear panel, said enclosure of a size to receive said keyboard when said enclosure is only minimally stretched, wherein said top panel comprises a thin, elastomeric and substantially transparent or translucent membrane in

proximate contact with said keys of said keyboard, provided that said top panel cross-section does not correspond to the depressions or elevations of a specific keyboard array.

19. (Amended) A method of avoiding the transmission of disease carrying organisms between at least one user and otherdifferent users of a keyboard comprising having said at least one user apply to said keyboard prior to use thereof, and removing prior to use of said keyboard by another, of the application of a personal, easily removable keyboard cover to said keyboard by said user, said cover comprising a protective enclosure or cover for a keyboard assembly having a plurality of keys on a top face thereof, and an obverse face opposite said top face and, optionally, a means to provide communication between said keyboard and an external device; said enclosure having an envelope-like structure comprising at least a top panel, two vertical side panels, a vertical front panel and a vertical rear panel, said enclosure of a size to receive said keyboard when said enclosure is only minimally stretched, wherein said top panel comprises a thin, elastomeric and substantially transparent or translucent membrane in proximate contact with said keys of said keyboard.